

## Ex Officio Justices of the Peace

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### City of Edinburgh Council

26 June 2003

#### Purpose of Report

- 1 To invite the Council to nominate members to serve as ex officio Justices of the Peace for the Edinburgh area.

#### Main Report

- 2 The Secretary of Commissions for Scotland has asked for nominations of members from this Council to serve as ex officio Justices of the Peace. Section 11 of the District Courts (Scotland) Act 1975 provides that the Council may nominate up to one-quarter (14) of its members to serve as ex officio justices for its area.
- 3 A list of the 14 nominations made by this Council in May 1999 is shown at Appendix 1. If any of these members are to continue to serve as ex officio justices, they must be renominated.
- 4 As a result of the amendments made to the 1975 Act by the Bail, Judicial Appointments Etc (Scotland) Act 2000, councillor justices are placed on the supplemental list, which means in practice that they are restricted to signing duties and cannot sit on the Bench in the District Court. They may, however, participate in the proceedings of local Justices Committees.
- 5 Although ex officio appointments are not subject to Ministers' approval, once nominated they are subject to the same terms of appointment as Ministerial appointees and can be removed from office in like manner. In order to help the Council make its nominations, the Secretary of Commissions has therefore supplied the general criteria to which Ministers have regard in considering candidates (Appendix 2).

## Recommendation

- 6 That the Council nominate up to one quarter of its members (14) to serve as ex officio justices for the Edinburgh area.



**Jim Inch**

Director of Corporate Services

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54/06/03

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| <b>Appendices</b>        | Appendix 1 – List of Nominations made in 1999<br>Appendix 2 – General Criteria for Ministerial Appointments                    |
| <b>Contact/tel</b>       | Carmel Riley - telephone 529 4830<br>e-mail : <a href="mailto:carmel.riley@edinburgh.gov.uk">carmel.riley@edinburgh.gov.uk</a> |
| <b>Wards affected</b>    | City wide  |
| <b>Background Papers</b> | Letter dated 11 April 2003 from the Secretary of Commissions for Scotland  |

**EX OFFICIO JUSTICES OF THE PEACE  
NOMINATIONS  
1999/2003**

Councillor Kerr  
Councillor Kennedy  
Councillor Hinds  
Councillor Gilmore  
Councillor Thomas  
Councillor Morton  
Councillor Fitzpatrick

Councillor Houston  
Councillor Jackson  
Councillor Ponton  
Councillor Whyte  
Councillor Longstaff  
Councillor Mrs MacLaren  
Councillor Pringle

## GENERAL CRITERIA FOR MINISTERIAL APPOINTMENTS

The main consideration is that a candidate should be personally suitable as respects character, integrity and understanding, and should be generally recognised as such by those among whom he lives and works. Ministers however also have regard to a person's capacity to be aware that personal views may be a potential danger to impartiality and a willingness and ability to overcome this danger. Ministers do not regard the appointment of a candidate as a justice of the peace as in any way a reward for services rendered. Political affiliation is not a primary consideration.

### Disqualifications

The disqualifications for appointment applied by Ministers may be summarised as follows:-

1.1 Residential disqualification Under section 9(3) of the 1975 Act a person who resides more than 15 miles from the boundary of the Commission Area may not be appointed, or act, as a justice of the peace, subject to the exceptions in that section.

1.2 Age Limits The normal age limit for appointment is 60, but Ministers will consider an older candidate if he is exceptionally well qualified or has had previous judicial experience. Appointments over the age of 64 are excluded except in the most exceptional circumstances. Under statute, the names of all the justices are entered in the supplemental list when they reach the age of 70, which excludes such justices from court duties and in effect confines their duties to signing and witnessing certain documents. In addition the name of a person appointed as an ex officio justice is entered in the supplemental list on appointment.

1.3 Sequestration Under statute, a person whose estate has been sequestered is disqualified from being appointed or acting as a justice of the peace until the award of sequestration is recalled or reduced.

1.4 Convicted Persons Ministers will not appoint candidates who have been convicted of serious offences or of repeated minor offences which imply lack of respect for the law.

1.5 Persons Active in National or European Politics Ministers will not appoint a member of the Scottish Parliament, United Kingdom Parliament or of the European Parliament, a candidate formally adopted for election, or a whole-time paid party political agent where the area in which the justice would serve covers any part of the constituency.

1.6 Physical Disability Ministers will not appoint a person who by reasons of infirmity cannot carry out all the duties of a justice including those which are not performed in court.

1.7 Police etc Ministers will not appoint police officers, members of the special constabulary, traffic wardens, or civilians employed by the police, as justices of the peace or the spouse, parent, son, daughter, brother or sister of one of these.

1.8 HM Forces Ministers will not appoint a serving member of HM Forces as a justice of the peace.

1.9 Court Officials etc Ministers will not appoint as justices of the peace persons serving in the district court or persons who regularly appear before it, such as members of the prosecution service or officers of the Social Work Department. Section 13 of the 1975 Act disqualifies solicitors who are justices of the peace (and members of their firms) from acting in any proceedings for the district court for their area, but this does not apply to justices on the supplemental list. Ministers will not appoint serving members of children's panels as justices undertaking court duties, although previous experience as a panel member is regarded as relevant.

These disqualifications (apart from those of age and infirmity) normally apply also to a candidate whose spouse would be disqualified. Close relatives may similarly be disqualified. Persons who are not of British nationality will not be appointed if they are unable to take the Oath of Allegiance and the Judicial Oath required by law.

### **Reputation of the District Court**

The selection criteria are intended to maintain the reputation of the district court and the confidence which members of the public should have in justices of the peace as persons of integrity. Ministers hope that councils will agree similar standards should be applied to the nomination of members as ex officio justices.

### **Oaths**

Under statute, a person re-nominated to serve as an *ex officio* justice immediately after the expiry of a previous term as such is not required to take again the Oath of Allegiance and the Judicial Oath taken at the outset of a period of continuous service.